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*The American Judiciary.* By Simeon E. Baldwin, LL. D. The Century Co., New York, 1905. Cloth, pages xiii, 402.

In the first part of "American Judiciary," Judge Baldwin traces the growth of tribunals in this country from the time when they consisted mostly of unskilled men, with inconclusive authority, to the present, when, we believe, our highest courts are more independent and their judgments more conclusive than is the case in any other country. For in England, however efficient the judges may be, their decisions may always be thrown aside by *ex post facto* legislation in Parliament.\* In France and other strictly code countries, the judiciary receives much less respect than here, because, probably, having much less regard for precedent—(it is sometimes forbidden to use precedents)—the decisions of the highest courts are never, strictly speaking, the final statements of the law. In France, for example, it sometimes happens that a case appealed, referred down by the Court of Cassation to a second Court of Appeals, and again appealed, will receive a different judgment on the second appeal though the same point be raised.† How much more powerful and authoritative the American courts of last resort are, is indirectly shown by Judge Baldwin in his chapters on "The Judicial Power of Declaring What Has the Form of Law Not to be Law," and "The Force of Judicial Precedents." But in both the beginning and end of this book are traced the different struggles through which the judiciary had to pass to obtain this independence.

Part second deals, for the most part, with the organization and practical workings of our courts and the character of our Bench and Bar. Sentimentalists will disapprove of Judge Baldwin's continued advocacy of the whipping post as a punishment for certain crimes (p. 246). Here, however, his contention is mostly for its use in the southern states, especially for the correction of the negro element. Though Judge Baldwin does not dwell at length on the question, it is well worth notice. For, in the minds of most people, the whipping post necessarily involves a retrogression from modern ideas of civilization, and even the suggestion (p. 246) that imprisonment is far more degrading than a privately conducted flogging would be, fails to obscure the fact that the former is one degree farther removed from the tortures of the middle ages. But certainly it is not inhuman that some such retrogression should be resorted to in the case of the negro. Metaphorically, he has cut across a long corner in his journey toward civilization. He is lost in his environment because he has not arrived by a natural route. The very crimes for which the negro of the lower class is so notorious, are largely due to his forced growth along some lines and, perhaps, stagnation in others—

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\* Such power has been recently exercised in the celebrated case of the Scotch Free Church.

† If it so happens that the Court of Cassation reverses the decision of the Court of Appeals, and the second and third Courts of Appeals, to which the case is successively handed down, decide in the same way as the first, the power of the Court of Cassation to reverse in the particular case is exhausted.

they are not the crimes which were common to him in Africa. So that, in the face of so many unwise gifts forced upon him, there could be, in our opinion, no more salutary measure than to reduce his punishment to the level of his comprehension—for as Judge Baldwin points out, the terrors of jail are not at all convincing to the lower class of negroes. It is suggested (p. 247) that the reason why this punishment has not been provided in the southern states, is that it smacked of slavery. But it is shown that imprisonment is also slavery (and much more so), so that no such scruples ought to obtain.

While the author eulogizes, in the main, the judicial systems of our states, he is not at all prone to pass over their faults. He shows (p. 282) the reason why many of our trial courts contrast so unfavorably with those of England, *i. e.*, that in many states the judges are elected for short terms and at slight recompense, so that the judicial standard is low, whereas in England the term is life-long and the salary high, with corresponding efficiency in the judges. This grave fault in our system accounts for much of the unfortunate adverse criticism of foreigners to our judiciary. The fact that in one state at least (Texas) far less than half of the judgments appealed from, should be affirmed by the Appellate Court, shows need of change in this respect. It would be no easy matter, however, to bring about a change. In the last chapter the attitude of the American people toward the judiciary is discussed.

The two preceding paragraphs will show that the book contains more than a mere description and explanation of the American judiciary. In many other places are discussed live questions which are pertinent to the subject.

Though elementary, not being intended so much for lawyers as for others, it clears up many points which are extremely puzzling to those who are in the first few years of the study of law. Written in a style which reminds one of Bryce's "American Commonwealth," its clearness and coherence, considering the large field covered and the depth of learning shown, are remarkable.

G. S. A.

*The Law of Passenger and Freight Elevators.* Second edition. By J. A. Webb of the St. Louis Bar. The F. H. Thomas Law Book Co., St. Louis, 1905.

It has been nine years since the first edition of this author's treatise on elevators was published. The second edition is about as badly needed by the profession as the first was. The law of elevators occupies a very small portion of the law, but it is a branch that has taken a prominent place in the last few years and has come to be rather important. The cases have multiplied and the law has become more clearly defined upon their construction, condition and operation. This edition greatly enlarges the first, and the subject is more exhaustively and carefully treated. Citations are inserted in the text. The rights, duties and liabilities of owners and operators relative to passengers, employees, licensees